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**Group I:** Claims 26-55, drawn to a method for identifying organic non-peptide compounds useful in the treatment of cancer.

**Group II:** Claim 56, drawn to a method of evaluating whether an organic compound can promote a wild-type activity in a mutant form of a mammalian protein of the p53 family.

Applicants hereby elect without traverse to prosecute the claims of Group I in this application. Applicants election of Group I subject matter at present, however, does not prejudice applicants' ability to file divisional or continuation applications to unelected subject matter.

Applicants do not believe any additional fees are due in connection with the filing of this response to the April 11, 2003 Restriction Requirement. However, if any fee is due, the Examiner is authorized to charge the fee to applicants' Deposit Account No. 16-1445.

#### **CONCLUSION**

Applicants respectfully request prompt consideration of the pending claims and early allowance of the application.

If the Examiner wishes to comment or discuss any aspect of this application or response, applicants' undersigned attorney invites the Examiner to call him at the telephone number provided below.

Respectfully submitted,

Date: May 8, 2003

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150 East 42nd Street  
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**Group I:** Claims 26-55, drawn to a method of identifying an organic non-peptide compound, classified in class 436, subclass 91.

**Group II:** Claim 56, drawn to a method of evaluating whether an organic non-peptide compound can promote activity, classified in class 436, subclass 91.

Applicants wish to respectfully refer the Examiner to the restriction requirement imposed by Examiner Jerome D. Goldberg on April 11, 2003. This restriction requirement is the same restriction requirement as the present issued by Examiner Muirhei dated December 23, 2003. As a response to the April 11, 2003 communication, Applicants elected without traverse the claims of Group I (claims 26-55) on May 8, 2003. Applicants herein enclose a copy of Examiner Goldberg's restriction requirement, Applicants response, and stamped postcard received from the U.S.P.T.O.

However, in order to facilitate initial examination, Applicants hereby elect without traverse to prosecute the claims of Group I in this application. Applicants election of Group I subject matter at present, however, does not prejudice Applicants' ability to file divisional or continuation applications to unelected subject matter.

The Examiner has further requested that Applicants elect a specific organic non-peptide compound within the scope of claim 26. However, Applicants respectfully note that Claim 26 is a method claim which does not specify a specific compound to be tested. The method claim should not be limited to identifying specific compounds. The purpose of this method claim is to "identify" organic non-peptide compounds useful in the treatment of cancer. If Applicants are forced to elect a specific organic non-peptide compound, which may be identified by this method, it is asking the Applicants to provide a species of the possible resulting compounds. This request places an impossible burden upon the Applicants and Applicants posit that the Examiner can not impose such a request upon the Applicants.

In order to facilitate further examination, the Examiner has also requested that Applicants identify a "specific method of measurement" within the scope of the presented independent claim. To facilitate further examination, Applicants elect spectroscopy as a species of measurement. However, Applicants note that Claim 26 is not so limited, and the various assay methods provided in the specification (see page 37, lines 10-31) are merely representative examples of the wide spectrum of methods that might be used, all of which

would be immediately apparent to one skilled in the art upon review of the present specification.

Applicants clearly understand that the Examiner's request is only one for election of species (37 CFR §1.146) and not a requirement of restriction (37 CFR §1.142). Therefore upon the expected indication of allowability of the species invention, Applicants will be requesting rejoinder of all other "species". Additionally, since the invention is clearly valuable and pioneering, as it has been disclosed and claimed, Applicants seeks allowance of Claim 26 in generic form without limitation or mention of any specific assay technique.

Applicants do not believe any additional fees are due in connection with the filing of this response to the December 23, 2003 Restriction Requirement. However, if any fee is due, the Examiner is authorized to charge the fee to Applicants' Deposit Account No. 16-1445.

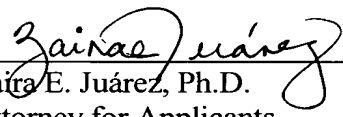
#### CONCLUSION

Applicants respectfully request prompt consideration of the pending claims and early allowance of the application.

If the Examiner wishes to comment or discuss any aspect of this application or response, Applicants' undersigned attorney invites the Examiner to call her at the telephone number provided below.

Respectfully submitted,

Date: January 23, 2004

  
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